

Message Text

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INR-05 NSAE-00 NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15

USIA-06 DLOS-03 AID-05 CEQ-01 COA-01 COME-00 EB-04

EPA-01 IO-04 NSF-01 OES-02 FEA-01 CG-00 ACDA-05 AEC-05

AGR-05 DOTE-00 FMC-01 INT-05 JUSE-00 OMB-01 EUR-08

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FM AMEMBASSY NASSAU

TO SECSTATE WASHDC 6130

C O N F I D E N T I A L SECTION 1 OF 2 NASSAU 1835

E. O. 11652: GDS

TAGS: EFIS PLOS BF

SUBJ: SPINEY LOBSTER

REF: A. STATE 236938; B. NASSAU A-255

SUMMARY: EMBASSY APPRECIATES OPPORTUNITY TO COMMENT ON REF A WHICH SETS FORTH DEPARTMENT'S VIEWS ON APPROACHING GCOB TO PROPOSE BILATERAL CONTINENTAL SHELF DELIMITATION TALKS AS FIRST STEP IN US GOVERNMENT INIATIVE INTENDED TO REACH BI-LATERAL AGREEMENT ON MUTUAL EXPLOITATION OF SPINEY LOBSTER. AS FOLLOWING INDICATES, EMBASSY BELIEVES THAT FISHERIES NEGOTIATIONS WITH GCOB CAN AND SHOULD BE KEPT SEPARATE FROM OUR LOS NEGOTIATIONS, ESPECIALLY THE ARCHIPELAGO DISCUSSIONS WITH WHICH WE ARE ENGAGED WITH THE BAHAMIANS. TO THE EXTENT THE DEPARTMENT'S JUDGMENT THAT CONTINENTAL SHELF DELIMITATION TALKS ARE NOT NECESSARY IS BORNE OUT BY EVENTS, WE SHOULD BE ABLE TO MEET BOTH OUR LOS CONCERNS AND OBJECTIVES AND, THROUGH A FISHERIES AGREEMENT, AVOID BILATERAL CONFLICT WITH THE GCOB. END SUMMARY.

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1. EMBASSY APPRECIATES COMPLICATIONS (PARAGRAPHS 2-5 AND 7 OF REFTEL) WHICH BILATERAL SHELF DELIMITATION TALKS NOW COULD CREATE IN OTHER AREAS, PARTICULARLY MULTILATERAL LOS NEGOTIATIONS, AND FINDS ARGUMENTS ADVANCED TO BE PERSUASIVE. DEPARTMENT IS OBVIOUSLY IN FAR BETTER POSITION THAN EMBASSY TO ASSESS NEGATIVE WEIGHT TO BE GIVEN SUCH COMPLICATIONS. EMBASSY PROPOSAL THAT WE ENTER INTO SUCH TALKS NOW REFLECTED OUR CONCLUSION THAT, IN RESPONDING TO BAHAMIAN DECLARATION OF SPINEY LOBSTER AS A CREATURE OF THE SHELF, WE HAD FIRST TO KNOW WHICH AREAS OF THE SHELF AND WHICH LOBSTERS WE RECOGNIZE AS BEING BAHAMIAN. PARAGRAPH 6 OF REF A SUGGESTS DEPT BELIEVES THAT, SETTING ASIDE CONTINENTAL SHELF DELIMITATION TALKS AS UNWISE AND UNNECESSARY, BILATERAL FISHERIES TALKS NONETHELESS COULD PROCEED SINCE "THE NATURE OF THE SPINEY LOBSTER FISHERY IS SUCH THAT, IN PRACTICAL TERMS, THERE IS NO NEED FOR A PRECISE KNOWLEDGE OF THE BOUNDARIES OF THE BAHAMAS CONTINENTAL SHELF. TYPICALLY THE FISHERY IS CONDUCTED IN WATERS LESS THAN 50 METERS DEEP." WE MUST ADMIT WE DO NOT KNOW QUITE WHAT THIS MEANS AND WE WILL APPRECIATE FURTHER ELABORATION. (OUR INFORMATION IS THAT LOBSTERS ARE FISHED IN WATERS DEEPER THAN 50 METRES ESPECIALLY BY LARGER COMMERCIAL UNITS, AND IN ANY EVENT WE DO NOT FULLY COMPREHEND WHAT THIS IS INTENDED TO IMPLY AS TO HOW FAR OFF GCOB SHORES LOBSTERS COULD NOT BE PROBED BY NON-GCOB NATIONALS GIVEN GCOB CONTINENTAL SHELF LEGISLATION.) NEVERTHELESS, IF DEPARTMENT'S JUDGMENT IS THAT WE DO NOT NEED TO BE PRECISE ABOUT WHICH AREAS OF THE SHELF WE ARE TALKING ABOUT IN ORDER TO IDENTIFY TO WHOM THE LOBSTERS BELONG, PRIOR TO ENGAGING GCOB IN DISCUSSION OF EQUITABLE ARRANGEMENTS WITH US FISHERMEN THE EMBASSY IS WILLING TO ACCEPT THAT JUDGMENT, AT LEAST AS AN OPERATIONAL ASSUMPTION. OUR OBJECTIVE IS TO PREVENT A LOBSTER WAR, OR SHORT OF THAT AN UNNECESSARY EXACERBATION OF RELATIONS, THROUGH BILATERAL NEGOTIATION AND AGREEMENT ON THE EXPLOITATION OF THE RESOURCE. IF THAT CAN BE ACHIEVED WITHOUT CONTINENTAL SHELF DELIMITATION TALKS, SO MUCH THE BETTER.

2. EMBASSY UNDERSTANDING OF PARAGRAPH 8 REFTEL, AS CLARIFIED IN A SUBSEQUENT CONVERSATION WITH DEPARTMENT LOS STAFF, IS THAT FORTHCOMING ARCHIPELAGO TALKS WITH GCOB, WHILE REMAINING SEPARATE FROM BILATERAL FISHERIES TALKS, SHOULD TOUCH ON

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SPINEY LOBSTER QUESTION, POINTING TO IRRITANT THAT LACK OF AGREEMENT ON FISHERIES ISSUE COULD BE IN OTHER AREAS AND EXPRESSING HOPE THAT AGREEMENT WOULD SOON BE FORTHCOMING. WE CERTAINLY HAVE NO PROBLEMS WITH THIS. WE KNOW THAT US FISHERIES INDUSTRY IS A KEY PARTICIPANT IN AN ADVISORY CAPACITY IN US LOS POLICY FORMULATION AND ITS ROLE IS ONE WE MUST TAKE ACCOUNT OF. WE ALSO BELIEVE, HOWEVER, THAT ARCHIPELAGO DISCUSSIONS WITH GCOB, WHICH HAVE MULTILATERAL LOS CONTEXT,

AND FISHERIES TALKS WHICH WOULD BE STRICTLY BILATERAL, ARE BOTH MOST LIKELY TO BE ADVANCED SUCCESSFULLY IF PLACED ON CLEARLY PARALLEL TRACKS RATHER THAN MIXED. WE UNDERSTAND FROM SUBSEQUENT CONVERSATION THAT IT IS NOT DEPARTMENT'S INTENTION ACTUALLY TO ATTEMPT TO NEGOTIATE SPINEY LOBSTER ARRANGEMENT IN A LOS SETTING AND THAT SCENARIO DESCRIBED IN PARAGRAPH 8 IS IN FACT A SET OF TALKING POINTS FOR USE IN ARCHIPELAGO DISCUSSIONS, THE BILATERAL ISSUE BEING PURSUED SEPARATELY. WEISS

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ACTION L-02

INFO OCT-01 ARA-06 ISO-00 CIAE-00 DODE-00 PM-03 H-01

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FM AMEMBASSY NASSAU

TO SECSTATE WASHDC 6131

C O N F I D E N T I A L SECTION 2 OF 2 NASSAU 1835

3. REGARDING PARAGRAPH 9 REFTTEL, EMBASSY BELIEVES GCOB, FOR ITS PART, WOULD NOT AGREE TO POSTPONEMENT OF DECLARATION AS CONTRASTED TO ENFORCEMENT, AND, FOR OUR PART, WE SEE NO ADVANTAGE AND CONSIDERABLE DISADVANTAGE TO US GOVERNMENT REQUESTING THAT IT DO SO. GCOB LEGISLATION AUTHORIZING DECLARATION HAS ALREADY BEEN ENACTED. TO PROPEL OURSELVES INTO ACT BY REEQUESTING MORATORIUM ON ISSUANCE OF DECLARATION INJECTS US RATHER DIRECTLY INTO INTERNAL POLITICAL PROCESS. MOREOVER, IT DOES SO ON AN ISSUE ON WHICH GCOB IS FOLLOWING A US LEAD, INDEED WITH LEGISLATION MIRRORING OUR OWN. GCOB LEGISLATION AND DECLARATION WAS A RISK USG CONSCIOUSLY ACCEP-

TED AT TIME US LOBSTER LEGISLATION WENT INTO EFFECT. THUS IT SEEMS TO US WISER TO FOCUS OUR EFFORT ON MANAGING THE RESULTS OF THE DECLARATION. ACCORDINGLY, REQUESTING A MORATORIUM ON ENFORCEMENT OF THE DECLARATION, WOULD NOT BE INAPPROPRIATE NOR WOULD SUCH REQUEST BE SEEN HERE AS IMPROPER INTEREST IN DOMESTIC BAHAMIAN CONSTITUTIONAL PROCESSES. THE GCOB LEGISLATION PROVIDES FOR BILATERAL AGREEMENTS AND WE WOULD BE PROPOSING TALKS TO REACH SUCH AN AGREEMENT. WE BELIEVE THAT GCOB PROBABLY WOULD AGREE TO MORATORIUM ON ENFORCEMENT MEASURES

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PENDING OUTCOME OF BILATERAL FISHERY TALKS. WE DO NOT BELIEVE, AS INDICATED ABOVE, THAT WE SHOULD ESTABLISH A LINK BETWEEN OUR ARCHIPELAGO DISCUSSIONS AND OUR FISHERY DISCUSSIONS (EXCEPT TO SAY THE ATMOSPHERE SURROUNDING THE LATTER COULD EFFECT THE FORMER) AND WE SHOULD PROCEED ON THE BASIS OF A FORMULA TYING THE MORATORIUM ON ENFORCEMENT TO BILATERAL TALKS ON FISHERIES.

4. IN SUM, EMBASSY'S PREFERRED FORMULA, MINUS THE OPENING STEP OF CONTINENTAL SHELF DELIMITATION TALKS WHICH THE DEPT BELIEVES ARE NOT NECESSARY TO THE TASK AT HAND, REMAINS AS GIVEN IN NASSAU A-255. WE BELIEVE USG SHOULD COMMIT ITSELF AS A MATTER OF POLICY TO GOVERNMENT-TO-GOVERNMENT NEGOTIATIONS TOWARD A BILATERAL FISHERY AGREEMENT SEPARATE FROM AND OUTSIDE THE CONTEXT OF OUR ARCHIPELAGO DISCUSSIONS. WE RECOMMEND THAT DEPT AUTHORIZE THE EMBASSY TO PROPOSE SUCH TALKS TO THE GCOB, THE TIMING FOR THE APPROACH TO BE LEFT TO THE EMBASSY'S DISCRETION, TAKING ACCOUNT OF THE FACT THAT GCOB INTERNAL ADMINISTRATIVE PROCESSES ARE RATHER SLOW AND GCOB HAS NOT YET SIGNED THE LEGISLATION INTO LAW NOR HAS THE IMPLEMENTING DECLARATION BEEN PREPARED AS YET. IN MAKING ITS APPROACH, EMBASSY WILL REQUEST A MORATORIUM ON ENFORCEMENT PENDING CONCLUSION OF THE TALKS AND THE REACHING OF AGREEMENT.

5. ONE CONCERN THE EMBASSY HAS IS NOT ADDRESSED IN THE DEPARTMENT'S REPLY NOR IN THE ABOVE COMMENTS ON IT. IN THE EVENT THERE IS NOT A MORATORIUM ON ENFORCEMENT, OR THE MORATORIUM DOES NOT EXCLUDE BAHAMIAN PATROLS OVER THE SHELF AREAS THE GCOB THINKS HAVE BECOME BAHAMIAN UNDER THE DECLARATION, WHAT WILL BE THE USG RESPONSE? WILL US PROTEST AND ARGUE THE GCOB HAS NO RIGHT TO DO WHAT IT IS DOING (BECAUSE THE SHELF AREA IS NOT BAHAMIAN)? IF SO, WE DO NOT SEE HOW IT CAN BE DONE WITHOUT A LINE. OR WILL WE ARGUE JEOPARDY TO SOUND RELATIONS AND THE ADVANCEMENT OF OUR MUTUAL INTERESTS (ARCHIPELAGOES AND LOS)? WE HOPE, OF COURSE, WE DO NOT ARRIVE AT THIS POINT, BUT PARAGRAPH 8 TAKEN TOGETHER WITH ASSUMPTION IN PARAGRAPH 6 LEAVES US CONFUSED ON THIS ISSUE, WHICH FOR THE EMBASSY HAS IMPORTANCE FOR OUR CONSULAR AS WELL AS GENERAL BILATERAL RESPONSIBILITIES HERE.

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